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593 along with Bove (g):244, that "every Fuegian family lives in the utmost independence" /translated from Italian/. This independence, however, is never so great, as is maintained in Outes (g):58, "that the father cannot threaten his child nor give him direct orders" /translated from Spanish/.

A second prominent feature of the Fuegian family is its patriarchal tendency. The latter is clearly recognizable, although by only a few indications; yet there is neither a law of inheritance nor clan formations with special demands and obligations. Nevertheless, the father is and remains the head of the whole family, even though, through the division of labor, his wife has an independent field of activity, and he therefore rarely asserts his slightly superior power. Martial:196 describes this lawful relationship as follows: "Authority in the family belongs to the father; wife and children obey him. His authority, however, is very weak and is exercised only in case of necessity" /translated from French/. Each of the two partners can freely [421] dispose of his or her special property. Nevertheless, the care and responsibility for common possessions or for family property fall on the man. He gives the ultimate decision on matters of some importance for the family members, and all of them yield to his words. If he dies, his older brother must take charge of the wife and children he leaves behind, and this is a universally lawful obligation. This patriarchal tendency in Fuegian family organization is not expressed in name-giving, but since here the name is taken from the place of birth (p. 536), there is no real connection.

2. The Circle of Relatives

612 In the tribal society of our Yamana every individual family is an independent, self-contained structure. In contrast to this, relatives are a loose aggregate of all those who are joined by the ties of consanguinity. According to Fuegian ideas, persons are related to each other only if they can trace their origins to some

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E. Property Relations

421 The orderly and peaceable coexistence of the Yamana is largely made possible by the fact that their property relationships are regulated according to ancient laws. No one questions how these arose or upon what they are based, since for each generation up to the present time traditional custom was the immutable guiding principle. Certain legal titles are based on fact; the prevailing laws of custom are primarily decisive. Actually our Yamana have an adequate number of legal concepts, which they followed in olden times as well as now (376). The economy and the social

376. With a view toward facilitating comparison as much as possible, this section was organized to some extent according to the pattern in Volume I, 423. Compare Krickeberg (a):331.

organization have played a part in the formation of certain relationships involving property. These relationships /962/ are particularly apparent in the social intercourse of persons or groups and in the relations between members of the most intimate family circle (377).

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377. Since the economy and the social organization of our Yamana agree to a great extent with the Selk'nam forms, it is not surprising that the property relations of both are almost completely alike.

A careful observer can easily determine the prevailing legal conceptions of the Yamana insofar as they pertain to property, for they are simple and definite in themselves and are also translated into action. This is not to deny individual violations against the law, but the characteristics of the law may be recognized in these very transgressions. One need not be put off by the contradictory judgments of travelers and missionaries. Some facts and observations have simply not been correctly interpreted.

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•421 Sometimes it can even be shown that this or that person expressed himself first one way and then another. If one takes the trouble to evaluate the actions of the natives from their standpoint, it becomes clear that they are almost never in violation of the legal norms of Europeans. The repeatedly circulated opinion that our Yamana have no feeling for "thine" and "mine" and that therefore they practice uninhibited theft and robbery is wholly unproved slander. If we were to assume such behavior, how would peaceful coexistence with their own kind be possible? Every Indian knows the laws pertaining to common property as well as personal property, and there are all kinds of considerations that force him to observe them carefully; otherwise he could not live in the society of his fellow-tribesmen.

a. Kinds of Property

In view of the unique position of the Yamana within the totality of lower primitive peoples and also for an exact understanding of the individuality of their culture traits, it is advisable to point out definitely at the beginning what a well-developed conception of property our Fuegians possess. They have a clear conception of "thine" and "mine"; accordingly, they understand occasional violations of property rights and actually observe the titles of possession which are current there. They use possessive pronouns [192] (Pronomina possessiva) to distinguish a specific person as the owner of certain things. There is a large selection of words designating theft and damage to goods belonging to others, and there are plenty of opprobrius terms for persons who seize the property of others (378).

378. Strangely enough, Spegazzini (a):177 maintains that among all three Fuegian tribes "the verbs to take and to steal are equivalent" /translated from Spanish/. A glance into SD and at the word lists of the Selk'nam and Halakwulup would easily have shown him his mistake.

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•421 /963/ They not only acknowledge that material goods have a definite owner who has sole right of disposal, but they also apply this acknowledgment to specific relationships between individuals. [857 736] Accordingly, children belong to both of their own parents as their property, and one spouse has an actual right to the other. Step-parents have similar rights to children who have only one parent or are completely orphaned. We shall soon discuss the fact that certain groups have a definite title of possession for sections of land marked off with boundaries.

The social order of the Yamana recognizes two types of property, namely, common possession and personal property. The former is based on the absolute necessity of hunting and the roving mode of life. Since everyone, or rather the individual family, is thrown back on its own resources for a considerable time, it is also the sole, unrestricted master of everything it carries along, and it disposes of this quite freely. This distribution of possessions is natural; we come across it not only among all three Fuegian tribes, but quite generally among peoples with a low gathering economy.

It would be a mistake to regard the common property as a communistic form of possession, for the individual person only has the usufruct of it under certain conditions. In like manner it would [476] be incorrect to explain along these lines the obligation of mutual aid which is emphasized to a remarkable degree among the Yamana (379). Voluntary distribution of possessions in the form of

379. Hyades (q):243 opposed such an obviously false interpretation: "They like to share what they have with those around them, and one cannot say that this is because of the community of property. This community does not exist in Fuegia" /translated from French/.

booty and tools occurs as a result of social considerations, but leaves completely untouched the right of disposal itself.

1. Common Property

126 The consciousness of ethnic unity is very pronounced among 423 our Yamana, as among all primitive peoples. It is based on identity

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423 it is their intention to work for the benefit of these events; hence they forgo a property right which otherwise would accrue from their personal work. Later, after the end of the ceremonies when the Great Hut is abandoned by the group, the latter automatically relinquishes its right of disposal. Anyone who then establishes himself in it /967/ or who wants to use a few sticks from it is not prevented from doing so, since he is appropriating something that has been acknowledged as ownerless.

423 635 Although the Yamana emphasize their right to sole possession of their native area and strictly guard the respective boundaries of their dialect groups, they are just as lenient when distress or expedience make it advisable to waive special rights. They put the life and livelihood of each of their fellow-tribesmen far above these rights.

2. Private Property

424 Like their neighbors, the Selk'nam (Vol. I, 412) and the Halakwulup, our Yamana also make a sharp and clear distinction between common possessions and personal property. The former belongs to a larger group or to the whole tribe; private property belongs to only one person as his individual possession, or, as family property, to members of the same family, in the limited sense of the word, who comprise an economic unit. In everyday speech this distinction between individual possessions and family possessions is clearly expressed (381). For example, the man speaks

> 381. The data of other observers are not always clear and comprehensive. Thus Hyades (4):309 in one case writes: "Property is individual; there is no chief, social hierarchy, or slaves" /translated from French/. In another place (3):336 he admits that there is common property, besides personal property: "Property is individual and hereditary without a will, but this applies only to personal effects: canoe, hunting or fishing implements, skins of animals, each person having only what is necessary of these objects" /translated from French/.

/967 cont./

421 of his weapons, the woman of her little baskets, and the child of his ornaments, each one emphasizing his unlimited right of disposal, but each of them can only speak of "our hut," for it belongs jointly to the members of the same family. The designations for the right of ownership in the two cases are different.

a. Personal Possessions

422 At every turn the careful observer comes up against the unequivocal determination with which every Indian lays absolute claim to his personal possessions and defends them against misappropriation and damage. He regards himself as the exclusive master and owner of certain things to which other persons have no right. He alone disposes of them according to his own free will or he loans them for temporary use to a person who urgently requests them and pledges to return them. No one presumes to lay hands on the personal possessions of someone else, unless he is a thief.

It is easy to determine what belongs to the individual, because no one overloads himself with possessions and because /968/ clear, definite legal titles are behind them. Moreover, it follows from the nature of the simple economy of the Yamana that one person possesses no more, essentially, than another of his fellow-tribesmen. Finally, the little that one person carries with him is quite openly exposed to view and can easily be observed by his neighbors (382).

382. Bridges, in (I):22 and in MM:III, 115; 1869, listed the total number of objects that constitute "a Yahgan's property" /cited in English/. He does not mention which is the special property of the man, the woman, and the children.

Fully aware of having a general and actual right to the possession of his own things, everyone guards what he has with obvious jealousy. It takes forms that are incomprehensible to us, especially when someone owns things of European origin, for these

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b. The Right of Possession

421 The Yamana recognize actual possessions as personal property, aside from a few common possessions. Institutions and principles pointing to pure communism are completely absent. They are familiar with several titles for the right of possession, which we must now discuss, after having described the actual forms of property. In this respect, too, our Yamana agree almost completely with the neighboring Selk'nam (Vol. I, 434). The recog- [171] nized legal titles are as simple and clear as the forms of the possessions of this tribal society.

1. Right of the Supreme Being as Creator

421 T16 Later on we shall speak of the religious convictions of the Yamana, which culminate in the recognition of a Supreme Being. Common names applied to this being are Watauinéiwa, "the /973/ ancient one," and Hidábuan, "my father." He is lord over all visible things and their supreme owner. The compound term Watauinéiwa-sír, which is often used, evidently means: the sír, or thing in the sense of property, of Watauinéiwa (386). Practically

386. BD:379 interprets this word with: "tools, implements, vessels, toys, goods, property, things in general" /cited in English/.

everything visible and tangible, without reservation, is regarded by our Fuegians as Watauinéiwa-sír; therefore the Supreme Being is the owner of visible creation.

421 T16 825 Among all that has been created, the necessary daily food is the most important for our Indians. Heading the list are the game animals hunted by the man and the many lower animals which the woman gathers. Although the individual exerts himself personally for these, it is nevertheless as though he first had to ask permission from Watauinéiwa for each piece, hence his repeated request in actual prayers to the Supreme Being for the things he needs for his subsistence. In this procedure there is a faint hint that Watauinéiwa will benevolently give each human being some of that which he

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421 825 776 alone has the right to distribute. The Yamana accepts the slain animal and every other thing as a gift voluntarily bestowed by the Supreme Being; consequently he does not fail to thank his deity expressly for this now and then.

The Yamana have the same idea in mind when they say that everyone should kill and gather only as many animals as are needed for the moment. Beyond that it is punishable to destroy wantonly and aimlessly a number of animals which are not used in the household and which finally putrify. With this restriction they first of all want to check senseless waste of useful animals, but they do not overlook the fact that in such action there is also a violation of the primary property right which belongs only to Watauineiwa. It is said that he voluntarily lets each individual Yamana have exactly as much as he needs for subsistence, and he punishes a person who, over and above that, wantonly destroys something of his.

If there is a ceremony for the dead or if, on another occasion, someone gives expression to his grief, he sometimes, in self-justification, lets the Supreme Being know that all his life long he has never illicitly, that is, through misuse, laid violent hands on animals which were made available to him for his own subsistence. If anyone has really done wrong in fits of anger and has given vent to his rage by unjustifiable destruction of many animals, he is soon remorseful and begs sincerely for the forgiveness of Watauineiwa because /974/ of the harm he inflicted upon him. Sometimes an excited person will threaten Watauineiwa with specific words, thus wishing to avenge himself for some misfortune, saying that he is going to slay masses of his living animals in order to harm him greatly. In these condemnations the deity is clearly set forth as the owner of available material goods, among which animals are regarded as primary.

The Yamana do not give a definite reason why the Supreme Being has the legal title to all creation, primarily all animals. Nevertheless, this idea lives very clearly and definitely within them and serves as a guide for their actions. We shall speak of supplementary details in our description of their form of religion.

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425 particular type of necklace or other ornament will copy it again and again. A child time after time procures for himself the outstanding toy that is his favorite. Everyone puts his particular wishes into the fashioning of an object and it thereby becomes his property.

Many statements could be quoted which come from every Fuegian's conviction that by the mere production of an article he makes himself sole owner of it and that special confirmation of his right of disposal is not necessary. Other people keep their hands off it; otherwise the owner would defend his property by merely pointing out that he made it. Any object that has been fashioned has its particular owner, either the husband or the wife or the child belonging to the same family. No one would take liberties with the articles of another without making himself guilty of theft. These personal belongings should be kept distinct from those few things which, in the service of all the members of the family, are available to everyone equally as "family goods."

Obviously the lawful title to every article made arises from the work involved. The individual purchases with his own physical strength and skill the object that he makes out of the raw material. Everyone says: "I made this object, therefore it is mine!" Anyone who wishes to have an object that he sees in the hands of another and admires acquires it for himself most easily by making it. The above rules of common law are so very much taken for granted by the Yamana that in everyday life they are hardly ever mentioned by anyone, although old and young invariably conform to them in all their actions.

4. Barter, Loans, Gifts

•421 The different treatment of possessions and the use to which they are put derive from the right of ownership. For example, the owner can let his things go to ruin or purposely destroy them. No one will stop him, although his behavior may be characterized as unwise and senseless. The Fuegian does not possess an abundance of goods, and everyone must /978/ sooner or later obtain or make for himself, sometimes with great toil, whatever is indispensable to him and what he has destroyed without reason.